

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-151-W

MICHAEL O'NEILL,

Defendant.

STATEMENT OF THE GOVERNMENT
WITH RESPECT TO SENTENCING FACTORS

PLEASE TAKE NOTICE that the government adopts the findings of the Presentence Report with respect to sentencing factors except as to ¶¶ 32-34, and 39. The plea agreement differs from the Sentencing Guideline calculation in the Presentence Report in that the plea agreement calculated a Criminal History Category of I and the presentence report found, based on a calculation of 2 criminal history points, the defendant's Criminal History Category is II. Pursuant to United States v. Lawlor, 168 F.3d 633 (2d Cir. 1999), the government is bound to advocate the calculation in the plea agreement.

Should the defendant present any letters of support or sentencing statement to the Court, the United States will move to strike the items from the record if this office is not provided with copies at least three (3) business days prior to sentencing.

The defendant is required by 18 U.S.C. § 3013 to pay the sum of \$100.00 at the time of sentencing. Immediately after sentencing, the defendant must pay the amount due by personal check, cashier's check or certified funds to the United States District Court Clerk.

The defendant has the ability to pay a fine in the Guideline range. The government urges the Court to impose a fine which is due immediately as the defendant has assets which may be used to pay the fine.

It is requested that the Court order that all financial obligations be due immediately. In the event the defendant lacks the ability to immediately pay the financial obligations in full, it is requested that the Court set a schedule for payment of the obligations.

In the event present counsel for the defendant will continue to represent the defendant after sentencing in regard to the collection of unpaid financial obligation(s), it is requested that a letter so advising be sent to:

Asset Forfeiture/Financial Litigation Unit
U.S. Attorney's Office WDNY
138 Delaware Avenue
Buffalo, New York 14202

If a letter is not received within ten (10) days of sentencing, the defendant will be directly contacted regarding collection of the financial obligation(s).

Upon the ground that the defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the

defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, the government hereby moves the Court to apply the additional one (1) level downward adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(b).

DATED: Buffalo, New York, November 7, 2017.

JAMES P. KENNEDY, JR.
Acting United States Attorney

BY: s/LAURA HIGGINS
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716/843-5862
Laura.Higgins@usdoj.gov